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February 11, 2000

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EXECUTIVE SECRETARY
Revised

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Pkwy.
Nashville, TN 37243-0505

Hand Delivery

Re: Application of Terrabrook Ladd Utilities, LLC for a Certificate of Public Convenience and Necessity, Docket No. 99-00509

Dear Mr. Waddell:

It was brought to my attention yesterday afternoon that copies of the Pre-filed testimony of Kenneth R. Green filed yesterday afternoon were missing pages 3 and 4. Therefore, I am submitting his Pre-filed testimony again with all the pages included. I apologize for the error. Copies will be sent to counsel for the City of Franklin and the Consumer Advocate. Thank you for your assistance in this matter.

Sincerely yours,

Donald L. Scholles

DONALD L. SCHOLLES

Enclosure

c: Vince Williams, Consumer Advocate
Doug Berry
Mike Horne

BKSJ File No.: 99-272

POSTED
2-14-00

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

RECEIVED
REGULATORY AUTHORITY

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In Re: APPLICATION OF TERRABROOK)
LADD UTILITIES, LLC FOR A)
CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)
TO PROVIDE SEWER SERVICE)

EXECUTIVE SECRETARY

DOCKET NO. 99-00509

Revised

PREFILED TESTIMONY OF
KENNETH R. GREEN, VICE-PRESIDENT OF
TERRABROOK LADD UTILITIES, LLC

Dated: February 10, 2000

POSTED
2-14-00

1 Q. Please state your name for the record.

2 A. My name is Kenneth R. Green.

3 Q. What is your position with the Applicant, Terrabrook Ladd Utilities, LLC?

4 A. Vice-President.

5 Q. As Vice-President of Terrabrook Ladd Utilities, LLC did you cause the application in this
6 matter to be filed?

7 A. Yes.

8 Q. Mr. Green by whom are you employed?

9 A. Terrabrook

10 Q. What is your position?

11 A. General Manager and Vice President for Terrabrook's Nashville Operations. This
12 includes the development and management of Fieldstone Farms, a 1,000 acre Master Planned
13 community with 2,120 residences, commercial and recreation facilities. I am responsible for
14 new identification, planning and development of new residential communities for Terrabrook in
15 the Nashville MSA.

16 Q. What is your business address with Terrabrook?

17 A. 2111 Fieldstone Parkway, Franklin, TN 37069

18 Q. What is the business of Terrabrook?

19 A. Terrabrook owns over 40 planned communities in 23 major markets in 13 states and
20 Puerto Rico which include over 70,000 acres of land which when fully completed will comprise
21 55,000 single family homesites. Terrabrook is the developer of the Fieldstone Farms
22 development in Franklin, Tennessee, and my office is located at Fieldstone Farms.

1 Q. Can you tell the Directors why Terrabrook Ladd Utilities, LLC was created and why this
2 application was filed?

3 A. Terrabrook is planning to develop approximately 630 acres in Williamson County
4 located approximately 2000 feet north of the I-65 and Goose Creek bypass interchange and 2000
5 feet east of I-65. The property is bounded on the north by the Harpeth River and on the south by
6 Long Lane. A description of the property and a map showing the location of the property is
7 contained in the Engineering Report attached as Exhibit 2 to the application. Terrabrook plans
8 to develop approximately 1500 residential lots with a golf course. Terrabrook plans to develop a
9 residential golf course community with approximately 1500 lots. In addition to the golf course,
10 the following design elements are included in our initial concept plan. An integral part of the
11 project design would be a park system woven throughout the community. We have had
12 preliminary discussions with the Williamson County to connect this park system with the
13 adjacent County park. Along the Harpeth River, there is an opportunity for us to establish an
14 environmentally friendly wildlife area and nature trail. This system would connect with the
15 overall park system and be offered to organizations, such as the 4H Club, who could have
16 programs at the adjacent County park.. Water service to the property is provided by Milcrofton
17 Utility District. No public sewer service is currently available for the area. The planned
18 development will require a wastewater treatment and disposal system. Since no public sewer is
19 currently available, Terrabrook created the Applicant, Terrabrook Ladd Utilities, LLC, to own
20 and operate a wastewater treatment and disposal system for the development. The Applicant
21 cannot operate the proposed sewer system for the development without obtaining a certificate of
22 convenience and necessity from the Authority.

1 Q. Before this application was filed, did you discuss the provision of sewer service to the
2 development with the City of Franklin and Williamson County?

3 A. Yes. The property to be developed by Terrabrook is not located within the municipal
4 boundaries of the City of Franklin. Terrabrook approached the City of Franklin about providing
5 sewer service to the development to provide sewer service. At that time I understood that
6 Franklin was unable to provide sewer service. Therefore, the Applicant was created and this
7 application was filed to take steps to have a sewer provider available for the development. I will
8 discuss later in my testimony the specific conversations and positions of Franklin on providing
9 sewer service to the development in more detail. Williamson County does not provide sewer
10 service and was supportive of Terrabrook creating a utility to provide sewer service to the
11 proposed development.

12 Q. Why is it necessary that the proposed development have sewer service?

13 A. Service by septic system is not viable for the lots within the proposed residential golf
14 course community. The community will have several different housing types and lot sizes which
15 require conventional sewer service and disposal.

16 Q. Has the proposed Terrabrook development been approved by the Williamson County
17 Planning Commission?

18 A. No. Terrabrook cannot obtain approval for the development until it can show that sewer
19 utility service will be available. Terrabrook cannot demonstrate that sewer service is available
20 until a certificate of convenience and necessity is issued by the Authority to the Applicant
21 authorizing it to provide sewer service within the geographic boundaries of the proposed
22 development. Once the certificate is issued, then Terrabrook can advise the Williamson County

1 Planning Commission that a sewer provider is available to provide wastewater treatment and
2 disposal services for the development.

3 Q. Does the Applicant currently have any assets?

4 A. No. The Applicant has been created for the purpose of providing sewer service to the
5 proposed development. As will be discussed later in my testimony, Terrabrook will contribute
6 the sewer treatment plant, disposal system and collection system to the Applicant to enable it to
7 provide the requested service.

8 Q. Does Terrabrook have any experience in organizing and operating sewer utilities for its
9 developments?

10 A. Yes. Paragraph 4 of the Application describes four developments of Terrabrook where
11 Terrabrook has constructed sewer treatment plants and collection systems to serve its
12 developments. Upon the construction of the sewer system, the systems have been operated by
13 private sewer companies or by sewer districts which Terrabrook was instrumental in creating.
14 Although I personally have not been involved in the construction of one of these systems,
15 Terrabrook has the knowledge, experience and expertise to construct the sewer system and to set
16 up the Applicant to operate the system.

17 Q. Can you describe the relationship between Terrabrook and the Applicant?

18 A. The proposed development in Williamson County is being developed by Westbrook
19 United Land Investments, L. P. (WULI) which operates its developments under the trade name
20 Terrabrook. Westbrook United Land Investments, L. P. owns the Applicant. Westbrook United
21 Land Investments, L. P. is owned by a real estate opportunity fund, Westbrook Real Estate Fund,
22 III, L. P. (Fund III), which is sponsored and managed by Westbrook Partners, LLC. Westbrook
23 Partners, LLC (Westbrook) is a fully integrated investment management company with offices in

1 New York, Boston, Dallas, and San Francisco. Fund III was initially capitalized with equity
2 commitments in excess of \$1.2 billion from a variety of institutional investors and is the third
3 opportunity fund created by Westbrook since 1994. To date, Fund III has invested or committed
4 over \$890 million in equity in 29 transactions with a total capitalization in excess of \$2.5 billion.
5 Nine of these investments, valued at approximately \$125 million, represent residential planned
6 communities owned by Terrabrook.

7 Q. What kind of wastewater treatment and disposal system is the Applicant proposing to
8 install and operate?

9 A. The Applicant intends to construct a gravity flow sewer collection system and a
10 conventional sewage treatment plant with a capacity of approximately 525,600 gallons per day
11 with a zero discharge spray irrigation disposal system. The engineering report submitted with
12 the application describes the proposed system in greater detail.

13 Q. In the engineering report and in response to a Staff Information Request, the Applicant
14 provided information on the estimated cost of the wastewater treatment and disposal system and
15 on the projected annual operation, maintenance, and depreciation costs of operating the sewer
16 system. Who prepared these projections?

17 A. These estimates and projections were prepared by Smith Seckman Reid, Inc., an
18 engineering firm hired by Terrabrook to prepare these projections. The person who prepared
19 these estimates was not available for the hearing today. Jim Littlejohn of Littlejohn Engineering
20 who is working with Terrabrook on this development will testify about these projections in the
21 hearing and will be available to answer any questions of by the Directors about the estimates and
22 projections.

1 Q. In the Application you propose a residential monthly service rate with a minimum charge
2 of \$18.00 for the first 2000 gallons and a charge of \$2.80 per 1000 gallons for all usage above
3 2000 gallons. You propose a residential tap fee of \$3,200. Are these the rates you still propose
4 to charge?

5 A. No. The original engineering report for the wastewater treatment and disposal system for
6 the development proposed an assessment of a connection fee or tap fee of \$3,200 per lot. The
7 proposed connection fees would be used to recover the cost of the wastewater treatment plant,
8 disposal site and interest costs associated with the construction of these facilities. The original
9 plan as presented in the application anticipated that the Applicant would be responsible for
10 constructing the wastewater treatment plant and land disposal facilities. The Applicant would
11 recover its investment through the assessment of tap fees or connection fees to the developed
12 lots.

13 Subsequent to the filing of the application, the Applicant met with and discussed the
14 accounting of the tap fees with the Consumer Advocate. The Consumer Advocate had raised a
15 concern about treating the tap fees as operating revenue rather than as contributions in aid of
16 construction. The Consumer Advocate indicated that the funding described for the construction
17 of the plant and disposal facilities and the repayment of the cost of the treatment plant may place
18 an undue burden or risk on the Applicant and its ratepayers in the event the development did not
19 perform as anticipated. Therefore, Terrabrook is proposing that it construct the wastewater
20 treatment plant and disposal facilities with its own funds. After the facilities are constructed and
21 approved by the Applicant, Terrabrook will contribute these facilities to the Applicant.

22 The Applicant proposes to grant by contract prepaid sewer connection privileges to
23 Terrabrook for the lots in the proposed development. Under this approach Terrabrook will

1 recover its costs for the treatment facilities through an additional charge placed on each lot sold
2 in the proposed development. This approach minimizes the risk to the Applicant for the
3 repayment of the construction costs of the treatment plant facilities since the developer will
4 contribute these assets to the Applicant in exchange for an agreed upon number of prepaid sewer
5 connections to the Applicant.

6 In addition, the removal of depreciation expense from operating and maintenance costs
7 thereby reduces the overall expenses for which rates must be set to cover.

8 Q. What are the new monthly service rates the Applicant proposes to charge?

9 A. The new rates the Applicant proposes to charge are attached as Exhibit 1 to my
10 testimony. In the Engineering Report submitted with the application, the Applicant proposed a
11 commercial monthly service rate. The proposed development is entirely development is entirely
12 residential. Terrabrook does not anticipate having any commercial customers; therefore, no
13 commercial monthly service rate is now being proposed.

14 Q. How does the contribution of the entire sewer system by the developer benefit the
15 Applicant and its customers?

16 A. Since all of the Applicant's utility plant in service will be contributed plant, the Applicant
17 will have no rate base. Rates must be set only to cover operating expenses.

18 Q. How will the Applicant meet its operating expenses in the first few years of operation?

19 A. During the initial years of operation of the sewer system, the Applicant will not generate
20 enough revenues from monthly sewer charges to pay the anticipated operation and maintenance
21 costs of the system. Terrabrook proposes to provide an initial up front contribution to the
22 Applicant to help offset the deficit in sewer revenues until such time as adequate customers are

1 available to cover the projected operation and maintenance costs. Terrabrook will recover this
2 up front contribution in the lot costs associated with the development.

3 Q. Have you caused to be prepared revised financial exhibits which show the effect of
4 Terrabrook contributing the entire sewer system to the Applicant?

5 A. Yes. I have attached as Exhibit 2 to my testimony a revised proforma income statement
6 for the projected build out of the development. The rates proposed for monthly service should
7 begin covering the Applicant's operating expenses in year 5. The operating expenses are the
8 same as those set forth in the application and in the response to the Staff Request. The projected
9 income statement submitted in response to the Staff Request did not project the taxes which the
10 Applicant will be required to pay in operating the sewer system. I have projected the property
11 taxes, franchise taxes, and excise taxes which the Applicant must pay as a part of its operating
12 costs. Rates must be set to cover these costs. The property tax projection is attached as Exhibit
13 3 to my testimony. The franchise tax projection is attached as Exhibit 4 to my testimony. The
14 original pro forma income statement assumed that the Applicant would have 200 customers for
15 the entire first year of operations. This assumption was not a reasonable assumption. In the
16 revised pro forma income statement, the Applicant has assumed 100 customers for the first year
17 and has added 200 additional customers in the following years except for years 6 and 7 when
18 250 customers per year are added. The revised pro forma income statement projects that the
19 rates proposed will produce an annual revenue contribution by each customer of \$411.00. The
20 projection assumes a monthly usage of 10,000 gallons a month.

21 Q. The City of Franklin has intervened in this case. Can you describe for the Directors a
22 short history of your discussions and negotiations with the City of Franklin regarding the
23 provision of sewer service to the Terrabrook development?

1 A. Jim Littlejohn and I communicated early and often with representatives of Williamson
2 County and representatives of the City of Franklin. Terrabrook maintained a neutral position as
3 to the growth patterns and political interests of the County and the City. We first met with the
4 Williamson County Executive, Clint Callicott, on April 30, 1999 and briefed him on the project
5 and our desire to establish a private sewer utility to provide sewer service to the development.
6 Clint Callicott was thoroughly briefed on Terrabrook's position and did not express any
7 objection to the concept of the utility. The application was filed on July 15, 1999. I met with
8 Clint Callicott on August 17, 1999 to describe the application and to reiterate the neutral
9 objective of the proposal as being satisfied with the County or City jurisdiction.

10 On August 31, 1999, I met with Jerry Sharber, the Mayor of the City of Franklin. The
11 application process was described with the same basic neutral overview as was given to Clint
12 Callicott. The Mayor was very amicable and did not express any concerns or objections. I
13 discussed with Mayor Sharber the considerations that were ongoing regarding Franklin's
14 extending its urban growth management boundaries to the area which would include the property
15 in question. The Mayor felt that at some point he envisioned the tract being incorporated into
16 the City. The Mayor gave no time line for this event. There was a discussion about the several
17 areas of possible disagreement with the County and City concerning the growth management
18 boundaries.

19 On several occasions after this meeting with Mayor Sharber, Mr. Littlejohn contacted
20 Eddy Woodard, the Director of the City's Water and Sewer Department, to confirm whether
21 sewer would be located anywhere in the vicinity if the growth management boundaries of the
22 City were extended south to this tract of land. The Tennessee Department of Environment and
23 Conservation had recently denied several requests by Franklin for a wastewater plant and a

1 general drainage basin on their property. There were also no other plans for extension or
2 upgrades to the City's system to handle the area being considered by the growth management
3 proposal. Mr. Woodard indicated his support of our application to the TRA.

4 Terrabrook hired an attorney, Tom White, to assist it in discussion with Franklin. Mr.
5 White met with Eddy Woodard, Jay Johnson, the City Manager for Franklin, and with Doug
6 Berry, counsel for the City of Franklin. This meeting and all phone conversations with Doug
7 Berry have been of an extremely amicable nature. We have explained our position as simply as
8 we can. We have a very important piece of property, and we need to move forward with the
9 development of this property. We are not trying to dictate terms to the City of Franklin or to the
10 County. We are merely trying to move on with a reasonable development of this property which
11 is certainly something nobody should argue with. We are perfectly willing to commit to do
12 facility construction in compliance with the terms and specifications that would be compatible
13 with the interests of the City of Franklin or of Williamson County. With the greatest deference
14 to the interests of the City and the County, the development of our property should not be held in
15 abeyance until matters beyond our control are resolved.

16 The City has indicated to us that for political reasons it needs to have a "friendly
17 intervention" in this case. Applicant understands that the City has intervened on the grounds that
18 it can provide sewer service in the near future and that the property may someday in the future
19 be within the City's boundaries. Currently, however, the property is located within Williamson
20 County and the surrounding properties are located within Williamson County; therefore, there is
21 no way to annex the property into the City today. Whether this property or its surrounding
22 properties will ever be incorporated into the City's boundaries is uncertain. It is unclear whether
23 the Urban Growth boundary law will ever go into effect with many counties and cities indicating

1 they will challenge this law in court. Regardless of whether the property is ever included in the
2 City, there currently are no sewer solutions approved, funded, or designed to service the property
3 today or in the near future. The certainty of any "proposed" service is not clear, and the timing
4 is unknown. No sewer service currently exists for this property and surrounding properties
5 which are in the County, and no certainty exists for future sewer service. The Applicant has a
6 viable sewer proposal and ability to build the sewer system for the benefit of the development;
7 therefore, the public convenience and necessity has been established.

8 The granting of a certificate to the Applicant does not preclude the property from falling
9 under the jurisdiction of the City in the future, or providing sewer to the property or surrounding
10 properties in the future. Terrabrook has already demonstrated a willingness to discuss these
11 options should annexation or service from the City be available in the future.

12 Q. Does this conclude your testimony?

13 A. Yes, it does.

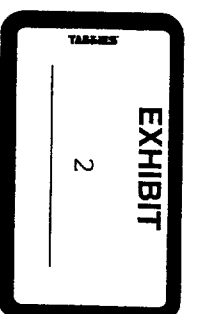
EXHIBIT 1

TERRABROOK LADD UTILITIES, LLC
MONTHLY SEWER SERVICE BILLING

Minimum Monthly Charge (first 2,000 gallons)	\$18.00
Charge per 1,000 gallons (actual or assumed flow)	\$ 2.03

**TERRABROOK LADD UTILITY, L.L.C.
SEVEN-YEAR PRO FORMA INCOME STATEMENT**

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Revenue							
Residential usage	41,110	123,300	205,500	287,700	370,000	472,650	575,400
Commercial usage	0	0	0	0	0	0	0
Total Revenue	41,110	123,300	205,500	287,700	370,000	472,650	575,400
Operating Expenses							
Labor	30,000	35,000	60,000	68,000	84,000	92,000	122,500
Power	47,800	47,800	95,650	95,650	95,650	105,400	112,000
Chemicals	800	1,200	1,600	1,600	2,400	2,400	3,000
Repairs/Supplies	12,000	12,000	24,000	24,000	48,000	48,000	60,000
Administrative	33,000	39,000	65,000	70,000	75,000	99,500	138,000
Property taxes	19,129	20,757	22,385	24,013	25,641	27,676	29,711
Franchise taxes	7,571	8,129	8,687	9,246	9,804	10,606	11,408
Total Expenses	150,300	163,886	277,322	292,509	340,495	385,582	476,619
Net Operating Income	-109,190	-40,586	-71,822	-4,809	29,505	87,068	98,781
Excise taxes	0	0	0	-289	1,770	5,224	5,927
Net Income	-109,190	-40,586	-71,822	-5,098	27,735	81,844	92,854

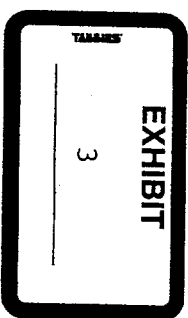


PROPERTY TAX PROJECTION

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Land	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Treatment Facilities - Contributed Value for Assessment at 25%	\$2,500,000 \$625,000	\$2,500,000 \$625,000	\$2,500,000 \$625,000	\$2,500,000 \$625,000	\$2,500,000 \$625,000	\$2,500,000 \$625,000	\$2,500,000 \$625,000
Collection System - Contributed Value for Assessment at 25%	\$200,000 \$50,000	\$600,000 \$150,000	\$1,000,000 \$250,000	\$1,400,000 \$350,000	\$1,800,000 \$450,000	\$2,300,000 \$575,000	\$2,800,000 \$700,000
Total Value for Assessment Purposes	\$1,175,000	\$1,275,000	\$1,375,000	\$1,475,000	\$1,575,000	\$1,700,000	\$1,825,000
Assessed Value at 55%	\$646,250	\$701,250	\$756,250	\$811,250	\$866,250	\$935,000	\$1,003,750
Applicable Tax Rate	\$2.96 per \$100	\$2.96 per \$100	\$2.96 per \$100	\$2.96 per \$100	\$2.96 per \$100	\$2.96 per \$100	\$2.96 per \$100
Property Tax	\$19,129	\$20,757	\$22,385	\$24,013	\$25,641	\$27,676	\$29,711

* No increase in property tax rate is included in projection

* Value of treatment plant and collection system reduced to 25% of value because is contributed capital



FRANCHISE TAX PROJECTION

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Land	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Treatment Facilities - Gross Plant Value	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000
Accumulated depreciation	-\$166,667	-\$333,334	-\$500,001	-\$666,668	-\$833,335	-\$1,000,002	-\$1,166,669
Treatment Facilities - Net Plant Value	\$2,333,333	\$2,166,666	\$1,999,999	\$1,833,332	\$1,666,665	\$1,499,998	\$1,333,331
Collection System -Gross Plant Value	\$200,000	\$600,000	\$1,000,000	\$1,400,000	\$1,800,000	\$2,300,000	\$2,800,000
Accumulated depreciation	-\$5,000	-\$15,000	-\$25,000	-\$35,000	-\$45,000	-\$57,500	-\$70,000
Collection System - Net Plant Value	\$195,000	\$585,000	\$975,000	\$1,365,000	\$1,755,000	\$2,242,500	\$2,730,000
Total Franchise Tax Base	\$3,028,333	\$3,251,666	\$3,474,999	\$3,698,332	\$3,921,665	\$4,242,498	\$4,563,331
Applicable Franchise Tax Rate	\$0.25 per \$100	\$0.25 per \$100	\$0.25 per \$100	\$0.25 per \$100	\$0.25 per \$100	\$0.25 per \$100	\$0.25 per \$100
Franchise Tax	\$7,571	\$8,129	\$8,687	\$9,246	\$9,804	\$10,606	\$11,408

- * Depreciation for treatment facilities computed on straight line with 15 year life
- * Depreciation for collection system computed on straight line with 40 year life
- * Collection system gross plant value for year 1 based upon 100 lots with \$2,000 per lot as contribution amount
- * Collection system gross plant value for years 2 to 5 based upon 200 lots per year with \$2,000 per lot as contribution amount
- * Collection system gross plant value for years 6 and 7 based upon 250 lots per year with \$2,000 per lot as contribution amount

